IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.343 OF 1998

The Commissioner of Income-tax ..Applicant.

V/s.

M/s. Indian Explosives Ltd. ..Respondent.

Mr.A.S.Rao for applicant.

CORAM : V.C. DAGA AND J.P.DEVADHAR, JJ.

DATED : 15TH MARCH, 2005.

P.C. :-

1. In this reference, the question referred for the opinion of this Court reads as under :-

> " Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the disallowance out of salary and perquisite to the employee directors should be made under section 40(c) of the Act and not under section 40A(5) of the Income Tax Act, 1961 ? "

2. The above question has already been answered by the Division Bench of this Court in the case of **C.I.T. V/s. Hico Products Pvt.Ltd. (No.1) [(1993) 201 I.T.R. 567 (Bom.)** in favour of the assessee and against the revenue. In this view of the matter, question stands answered in affirmative for the reasons stated in the case of Hico Products (P) Ltd. Reference, accordingly stands disposed of with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)